

E-FILED on 10/31/2012

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JULIAN GONZALEZ,
Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner, Social
Security Administration
Defendant.

No. C-11-06152 RMW

ORDER DENYING MOTION TO DISMISS

[Re Docket No. 21]

Defendant Commissioner moves to dismiss the complaint pursuant to Fed. R. Civ. P. 12. Specifically, defendant contends that plaintiff's complaint has omitted any identifying information regarding the decision for which plaintiff seeks review, leaving defendant unable to determine "what decision Plaintiff complains of, whether Plaintiff has exhausted administrative remedies, whether the decision is final, and whether the instant amended complaint is timely." Dkt. No. 21 at 3.

Plaintiff responds that his complaint is identical to this court's form complaint for social security cases and that defendant's concerns are more properly the subject of a motion for more definite statement under Rule 12(e). Consistent with Rule 5.2(a), which restricts the filing of certain personal information, the court's form "Social Security Complaint For Judicial Review Of Decision By Commissioner" only requires the last four digits of the claimant's social security number. *See*

1 <http://www.cand.uscourts.gov/civilforms>. Defendant also complains that plaintiff did not plead the
2 date of the decision, though again that is not called for by the court's form complaint. Moreover, the
3 same week this motion was filed, plaintiff's counsel was contacted by an employee from the Social
4 Security Administration, and, after he provided plaintiff's full social security number and confirmed
5 the date of the ALJ hearing, he was told that was all the information she needed. *See* Dkt. No. 22-1
6 (Decl. of Tom Weathered).

7 Defendant has not filed a reply or otherwise explained what further information he seeks. In
8 light of plaintiff's counsel's previous conversation with the Social Security Administration and his
9 representation that he is willing to provide any additional identifying information informally, the
10 court finds defendant should have adequate information to prepare a response. Accordingly, the
11 motion to dismiss is DENIED, and defendant is hereby ordered to serve and file an answer, together
12 with a certified copy of the transcript of the administrative record, within thirty (30) days of the date
13 of this order.

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15 DATED: October 31, 2012


RONALD M. WHYTE
United States District Judge